

Regional Tribal Operations Committee (RTOC) Meeting
U.S. EPA Region 5
Bois Forte Band of Chippewa
September 01, 2004

Meeting Participants

Bruno Zeger, Fond Du Lac
William Dew, EPA
Ferdinand Martineau, Fond Du Lac
Tim Lafriniere, White Earth
Mark Parrish, Pokagon
Jodi Traub, EPA
David Conner, Red Lake
Craig Wills, Prairie Island
Brad Frazier, Grand Portage
Darin Steen, Bois Forte
Margaret Guerriero, EPA
Jennifer Manville, EPA
Diane Thompson, Leech Lake

Don de Blasio, EPA
Bharat Mathur, EPA
Will Bemint, Fond Du Lac
Bert Frey, EPA
Steve Rothblatt, EPA
Darrell G. Deni, Red Lake
Paulette Foreste, EPA
Stan Ellison, Shakopee
Scot Hansen, Mille Lacs
Vickie Thomas, EPA
Rick Karl, EPA
Dallas Ross, LSIC
Ed Fairbanks, EPA

Welcome and Introductions

Martineau called the meeting to order and welcomed the participants. Introductions were made.

RTOC Administrative Business and Updates

The meeting minutes from June 02, 2004, were previously distributed and a copy was included in the information packet. No changes/additions were offered and the meeting minutes were considered approved.

Manville reviewed the action items on the RTOC Tracking Matrix. All items were considered complete except for the following:

- Action item #2: Tribal Caucus to poll respective tribes to determine interest in a three-way meeting between the tribes, EPA, and states. Information from Michigan was provided in July. Minnesota provided tribal input at the meeting. Tribal feedback is still needed from Wisconsin.
- Action item #6: Great Lakes National Program Office has offered to present a “Great Lakes 101 Tutorial” to interested tribes. Tribal Caucus and others are encouraged to provide suggestions to Vicki Thomas (thomas.vicki@epa.gov) on possible options for presenting the tutorial. One option would be a 20-minute presentation at the next RTOC meeting.

Dew provided an update from the National Tribal Operations Committee (NTOC). A policy analyst

has been hired to assist the NTOC. The budget process has started for Fiscal Year 2007. A standard format for the regional offices to submit data is under development. A tribal representative will be assigned to each goal in the EPA Strategic Plan. Ellison suggested that Region 5 handle Clean and Safe Water. Twenty-nine tribes now have “treatment as a state” status for water quality standards, and some tribes are applying for just portions of Indian Country. Headquarters is looking for tribal consensus on pursuing federal water quality standards for Indian Country. A representative from the U.S. Department of State addressed the NTOC and discussed identifying tribal representatives that could serve on international indigenous issue groups. The next meeting of the NTOC will be in November 2004.

Manville provided an update from the Federal Multi-Agency MOU Work Group. The Work Group met on August 16, 2004, at the U.S. EPA Region 5 office in Chicago. The meeting was held in conjunction with the Midwest Federal Partnership Meeting to Improve Tribal Waste Management. In addition to solid waste issues, the August meeting focused on revising the language in the memorandum of agreement (which expires this year), developing a coordinated process for complying with NEPA requirements across federal agencies, federal involvement in the Great Lakes Interagency Task Force. The next meeting is tentatively scheduled for November 16, 2004, and will likely be held in Wisconsin.

Update on National Tribal Water Quality Standards (WQS) Efforts

Traub reviewed the recent activities surrounding development of federal WQS for Indian Country. U.S. EPA anticipated releasing an advanced notice of proposed rule making (ANPRM) for federal WQS. However, due to concerns from some tribes (predominately in the West) that the Agency had not conducted sufficient consultation, the ANPRM was postponed. Currently, Headquarters is considering an “opt-in option” for federal WQS, and is working with the Office of Management and Budget to get clearance to determine tribal interest in opting in. In the meantime, Headquarters would like information feedback on which tribes are interested. Please contact Traub, Kathy Mayo or Manville to express interest. Traub also indicated that the Water Division wants to work closely with the 8-9 tribes that have communicated interest in developing their own WQS, and work out a schedule to complete the process.

Traub is sitting on a national tribal water issues steering committee, and one of the issues is the Clean Water Act Section 106 funding formula. There is a possibility of forming a “mini-TOC” for water issues.

Great Lakes Executive Order

Thomas provided a handout on the Executive Order on the Great Lakes. The Executive Order was signed on May 18, 2004, creating a cabinet-level Interagency Task Force to provide coordination on federal Great Lakes policy and to promote a “regional collaboration of national significance” for developing an overall strategy for protecting the Great Lakes. The Interagency Task Force will coordinate the development of consistent federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes system and assist in the appropriate management of the Great Lakes system. A Great Lakes Regional Working Group will be created to make recommendations on implementation of the policies, strategies, projects and priorities of

the Interagency Task Force.

In July 2004, Administrator Leavitt met with tribal representatives at U.S. EPA Region 5 offices. The steering committee met on August 12 and 27. Administrator Leavitt would like to hold a “flag and bagpipes” meeting in November/December 2004 (possibly the 2 weeks after Thanksgiving). The meeting would be a declaration of agreement to work together and to advocate a plan/strategy for what needs to be done.

As currently conceived, the steering committee would be responsible for planning the “flag and bagpipes” meeting. Subsequent to that meeting, a Great Lakes Summit I would be held in 2005 to develop a draft plan, and a Great Lakes Summit II (likely in 2006) to finalize the plan. An executive subcommittee of the steering committee will be formed and could consist of one representative from a state, city, tribe, and federal agency. It is the tribes’ to decision to participate on the executive subcommittee and identify a representative. The next steering committee meeting is tentatively scheduled for September 14, 2004.

The 9 priorities submitted by the Council of Great Lakes Governors will be used as a starting point and subgroups will be aligned with the priorities. There is recognition that the tribes may not have been involved in developing the priorities, and that the first priority would not be part of the process. Thomas will provide a copy of the Executive Order and the 9 priorities to the Indian Environmental Office, who will distribute to the tribal environmental contacts.

Steen asked whether the steering committee has been established. Thomas responded that it has not been formally set. Parrish stated that tribes need time to organize. Ellison asserted that tribes need to have representation on the steering committee. The Tribal Caucus was requested to consider options for representation on the steering committee.

Inspector Credentials/Possible Direct Implementation Tribal Cooperative Agreements

Frey stated that the draft Guidance for Issuing Federal EPA Inspector Credential to States/Tribes was issued in July 2004, and Region 5 comments on the guidance were included in the information packet. It is expected that the Guidance will be finalized by the end of 2004. The next step is to develop direct implementation tribal cooperative agreements (DITCAs) for inspector credential activities. In Region 5, inspection activities related to National Pollutant Discharge Elimination System (NPDES) storm water permits, wetlands, and underground storage tanks are possible candidates for federal inspector credentials. Mathur asked about funding for the potential DITCAs. Traub indicated that there is Water Division enforcement discretionary funding and Guerriero underground storage tank program enforcement funds. Manville reported that Region 5 is in the process of developing a strategy for issuing inspector credentials that includes identifying training needs and opportunities, funding sources, potential programs/interested tribes, etc.

National Tribal Conference on Environmental Management

Manville indicated that an announcement for the 7th National Tribal Conference on Environmental Management (NTCEM) was included in the information packet. The NTCEM will be hosted by the Grand Traverse Band of Ottawa and Chippewa Indians and the U.S. EPA, and is scheduled for June

2005 in Traverse City, Michigan. Planning for the NTCCEM is underway, and Grand Traverse Band is looking for ideas for workshop topics and volunteers for planning work groups. Tribes should contact either Andy Knott at (231) 271-7363 (aknott@gtbindians.com) Or Suzanne McSawby at (231) 271-7104 (smcsawby@gtbindians.com).

Frey suggested that the Conference should include sessions on legal issues, and offered assistance. Mathur requested that the Regional Indian Work Group obtain input from the various Region 5 divisions/offices. Fairbanks suggested that Region 5 can provide assistance to Grand Traverse Band once topics have been selected.

Open Forum

Dew indicated that a copy of a letter from Senator Inhofe to the General Accounting Office (GAO) was included in the information packet. The letter requests an investigation and report on U.S. EPA's awarding of program authorization for tribes in the State of Oklahoma. Frey stated that Inhofe is the Chair of the Senate Oversight Committee for U.S. EPA, and that in response to this request Region 6 revoked a program authorization for a tribe. The GAO has not responded yet to the request, and this type of investigation would be considered a substantial undertaking. The U.S. EPA Office of General Counsel has advised that the Agency continue to process program authorization applications.

Parrish raised an issue concerning U.S. EPA performance commitments. The Agency sent draft performance commitments to the tribes for review, and Parrish noticed that solid waste priorities reflected in the tribal environmental agreements (TEAs) were not included in the Agency's commitments. Comments were sent to Barry DeGraff requesting that solid waste be included, but Parrish received a response back suggesting that the draft performance commitments could not be changed. Guerriero will check with DeGraff and respond back to the RTOC. Dew stated that the larger issue is how do we get the priorities from the TEAs into the Agency's planning process.

An issue was raised concerning the availability of funding and training for placing data in the Storage and Retrieval of Water-Related Data (STORET) system. Traub will follow-up and information will be provided to the RTOC.

Mathur presented the following issues:

- Region 5 sends out material on the planning process and priorities. How can we improve both the communication to the tribes and from the tribes in order to better be able to represent tribes nationally? How can we be more effective?
- Region 5 has negotiated TEAs and has had RTOC meetings for 10 years. How can we make the RTOC meetings for effective/efficient? How can we get more tribal chairs/council members to Chicago? Should we consider different format, location, agenda items, etc.?

Ellison responded that the RTOC has evolved but is still focused on administrative procedures, need more time on policy. It was also suggested that tribal budgets should be on the agenda. The RTOC was requested to consider these issues and get feedback to Dew. Creation of a small subgroup to

work on the issues will be considered.

Next Meeting

The next meeting of the RTOC is scheduled for December 01, 2004, and will be held at the U.S. EPA Region 5 office in Chicago.